THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2869 OF 2005

DATED: 13-03-2007

BETWEEN

Dhanala Venkataratnam,
S/o. Malakondaiah,
R/o. Hyderabad.

...PETITIONER

AND

Assistant Commissioner of Labour,
Karimnagar, Authority under Section 53
Of the Andhra Pradesh Shops and
Establishments Act and another.

...RESPONDENTS

ORDER:

An order has been passed against the petitioner by the Authority under Section 50 of the Andhra Pradesh Shops and Establishments Act and Labour Officer, Karimanagar vide A.P.S & E Case No.6 of 2002 dated 04.08.2002 directing the petitioner to deposit a sum of Rs.56,250/- towards wages and service compensation payable to the second respondent herein. Aggrieved by the same the petitioner filed an appeal before the first respondent along with an application to condone delay of 870 days in filing the appeal under Section 5 of the Limitation Act. The said application filed on 31.01.2005 was not at all considered but the appeal itself has been rejected by order dated 07.02.2005 on the ground that the appeal has been filed after lapse of two years. Questioning the said order this writ petition has been filed.

2. It is not in dispute that the provisions of the Limitation Act do apply. If

the petitioner has not properly explained the delay of 870 days it is for the appellate authority to consider the same and pass appropriate orders on the merits of the case but without considering the application filed under Section 5 of the Limitation Act, the appeal cannot be returned on the ground that the same has been filed after lapse of two years.

3. Accordingly, the endorsement dated 07.02.2005 returning the appeal is set aside and the first respondent is directed to consider and dispose the application filed to condone the delay under Section 5 of the Limitation Act in accordance with law.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

March 13, 2007
DSK